

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



May 6, 2003

Agenda ID #2177

Agenda ID #2179

**TO: PARTIES OF RECORD IN RULEMAKING 95-04-043 AND
INVESTIGATION 95-04-044**

Enclosed herewith are two documents. The first document is the draft decision (DD) of Administrative Law Judge (ALJ) Pulsifer. The second document is the alternate draft decision (ADD) of Commissioner Loretta Lynch.

Each of these items will appear on the Commission's agenda for June 5, 2003. The Commission may act then, or it may postpone action until later. When the Commission acts, it may adopt all or part of the DD or ADD as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the DD and ADD as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the Assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN

Angela K. Minkin, Chief
Administrative Law Judge

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Enclosures

Decision **DRAFT DECISION OF ALJ PULSIFER (Mailed 5/6/2003)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion into Competition for
Local Exchange Service.

Rulemaking 95-04-043
(Filed April 26, 1995)

Order Instituting Investigation on the
Commission's Own Motion into Competition for
Local Exchange Service.

Investigation 95-04-044
(Filed April 26, 1995)

O P I N I O N

I. Introduction

By today's decision, we authorize the North American Numbering Plan Administrator (NANPA), together with carriers providing service in the 310 area code,¹ to proceed immediately with implementation of the back-up relief plan adopted in Decision (D.) 00-09-073. The back-up plan provides for a geographic split of the 310 area code to create a new 424 area code in order to replenish the

¹ Area codes are assigned nationally for designated local "Numbering Plan Areas" (NPA's) by the North American Numbering Plan Administrator (NANPA). The supply of available telephone numbers is governed nationally by the North American Numbering Plan which prescribes the structure of telephone numbering codes. Telephone numbers throughout the United States utilize a 10-digit dialing format composed of a three-digit area code, a three-digit central office prefix code, and a four-digit individual telephone line number. Each central office prefixcode represents 10,000 telephone line numbers.

supply of available telephone numbers. We issue this authorization after having explored all available means to avoid exhaustion of numbering resources in the 310 area code.

The relief plan that we implement in this order (Alternative 1A) was previously approved in D.00-09-073. In today's order, we adopt a schedule for its implementation. The adopted plan shall create a two-way geographic split of the 310 area code. The northern portion, including the majority of Inglewood, and all of Culver City, Marina Del Rey, Mar Vista, Santa Monica, Beverly Hills, West Los Angeles, Malibu and a small portion of the City of Hawthorne and Ventura County shall retain the 310 area code. The southern portion of the current 310 area code, including El Segundo, Hawthorne, Compton, Redondo, Lomita, and San Pedro shall be split off to form a new 424 area code. The boundary lines and rate centers covered by the new area code are depicted in Appendix A of this order. The 424 area code may be dialed on a permissive basis beginning on September 5, 2003, and must be dialed on a mandatory basis for calls into the new area code beginning on December 22, 2003. Carriers may start assigning numbers in the 424 area code beginning April 22, 2004.

Permissive dialing is a term that refers to the introductory grace period during which customers are given the opportunity to begin adjusting to dialing the 424 area code for numbers assigned to the new area code. During the "permissive dialing period," customers have the option of dialing the new area code, but may still reach parties in the new 424 area code by dialing the 310 area code. Callers are encouraged to begin dialing the new area code once the permissive dialing period begins so that they will be used to the new area code by the time it becomes mandatory.

At the end of the permissive dialing grace period, a subsequent implementation phase begins referred to as the "mandatory dialing" period.² Once the mandatory dialing phase begins, callers dialing numbers that are assigned the new 424 area code must dial the new area code and can no longer reach the called party by dialing the 310 area code. During the "mandatory dialing" phase of implementation, carriers are required to play a special recorded message whenever a caller wrongly dials the 310 area code to reach a number that has been changed to the 424 area code. The recorded message instructs the caller to hang up and redial the number using the 424 area code.

In order to ensure that callers hear the special recorded message whenever they dial the 310 area code for numbers assigned to the 424 area code, no new numbers may be assigned to customers in the 424 area code during the mandatory dialing phase of implementation. Otherwise, a caller may reach a wrong number rather than hear the recorded message. Carriers are able to begin assigning numbers from prefixes in the new area code only after the mandatory dialing phase of implementation has been completed. Of course, mandatory dialing of the new area code remains in effect after the implementation period concludes. At the end of the mandatory dialing phase of implementation, however, the special recorded message instructing the caller to redial the number using the new area code is no longer played. We discuss our concerns regarding continued notice to the public of the new area code after the official end of the implementation period later in this order.

² The "mandatory dialing period" is generally referred to as the "recorded announcement period" in states other than California.

II. Background

The 310 area code serves Local Access and Transport Area (LATA) 730³ located in Los Angeles County. The 310 area code was created in late 1991 to relieve numbers exhaustion in the 213 area code. The 310 area code was subsequently split in January 1997, forming a separate 562 area code, again to replenish number supplies. On February 18, 1998, industry representatives submitted to the Commission yet another proposed relief plan for the 310 area code, again claiming impending numbers exhaustion.

On May 7, 1998, the Commission issued D.98-05-021, approving a 310 area code relief plan, calling for the implementation of the first area code overlay ever used within California. In conformance with federal rules, the overlay plan also required the implementation of mandatory 1+10-digit dialing within the 310 area code and the newly created 424 area code.

On June 9, 1999, shortly after implementation of mandatory 1+10-digit dialing, Assemblyman Wally Knox, with other parties, petitioned to modify D.98-05-021, seeking to halt the opening of the overlay scheduled to occur on July 17, 1999, and to end mandatory 1+10-digit dialing. In D.99-06-091, issued on June 24, 1999, the Commission temporarily suspended mandatory 1+10-digit dialing in order to provide time to address the full merits of the Petition. In D.99-09-067, the Commission granted the Knox Petition, suspending the 310 area code overlay plan, eliminating mandatory 1+10-digit dialing, and instituting a

³ A “Local Access and Transport Area” is the designation for a service area covering one or more local exchanges within which local exchange carriers are authorized to provide service.

program of number pooling and related conservation measures to extend the 310 area code life.

The traditional system for assigning numbers was a legacy from an era in which one incumbent carrier provided all customers with local service in a given area code. Under the traditional system, a carrier wishing to serve only a few customers in an area is allocated telephone numbers in blocks of 10,000 for each rate center in that area. That system worked reasonably well as long as only one incumbent local exchange carrier required numbering resources. Yet, with the opening of the local exchange market to competition, together with the growth in the market for wireless and advanced technological telecommunications services, the traditional number assignment system could no longer keep up with the growing demand for numbers. The traditional system did not lend itself to efficient distribution of numbers in a competitive market where numbers are assigned to multiple carriers to serve customers in each rate center.

Moreover, industry claims of impending number exhaustion were based merely upon carriers' forecasts of numbering resource requirements. No independent analysis had been provided, however, concerning the reliability of such forecasts or carriers' actual utilization of numbering resources.

Accordingly, in D.99-09-067, the Commission ordered the staff to undertake a study of 310 area code number utilization to ascertain how efficiently carriers were actually using numbering resources already assigned to them. The Commission stated that a full accounting of 310 area code numbers actually in use would be required before setting any further date for the opening of a new area code.

We also adopted various number reporting and conservation measures in D.99-09-067 to utilize numbering resources more efficiently in view of the

delegated authority granted by the Federal Communications Commission (FCC) in a September 15, 1999 Order.⁴ Since the adoption of D.99-09-067, the Commission has made significant progress toward promoting more efficient utilization of existing numbering resources through thousand-block number pooling and related conservation measures.

On March 16, 2000, the Commission's Telecommunications Division (TD) issued its "Report on the 310 Area Code" (Report) presenting findings on how efficiently numbering resources remaining in the 310 area code were actually being utilized by carriers, in compliance with the directive of D.99-09-067. Parties were permitted to file responses to the Report. As reported by TD, there were approximately three million unused numbers as of November 1999. The TD Report provided corroboration of our earlier caution in questioning whether prior carrier claims of number exhaustion were supportable. The number conservation measures that we have adopted, including requirements in D.99-11-027 for carriers to return unused codes, fill rate and sequential numbering rules in D.00-03-054, and thousand block number pooling for LNP-capable carriers, help ensure that the unused numbers in the 310 area code identified in the TD Report are allocated as efficiently as possible.

Nonetheless, even with the unused numbers identified by the TD Report, there are various constraints on the ability of carriers to make use of these unassigned numbers in meeting current customer service needs. For example, per FCC rules, a certain quantity of unused numbers must remain reserved for

⁴ In the Matter of California Public Utilities Commission Petition for Delegation of Additional Authority Pertaining to Area Code Relief and NXX Code Conservation Measures, Order, CC Docket No. 96-98, FCC 99-248 (FCC Order).

carriers' inventory needs. Also, in certain cases, carriers may need numbers in a particular rate center.⁵ Even if there are unused numbers in other rate centers, a carrier may be unable to use those numbers to serve customers in a rate center where there is a shortage of central office prefixes.⁶ Of the three million unused numbers reported as of November 1999, only 466,000 were identified in the Staff Report as belonging to wireless carriers. At the date of the Report, wireless carriers were not able to participate in the current 310 area code number pool, they had to rely on the semi-monthly 310 area code lottery of central office prefix codes to meet their numbering needs.

Since that time, wireless carriers (except for paging companies) have become subject to FCC number pooling requirements. Currently, only paging carriers still rely on the California lottery for numbers. All other wireless carriers obtain number resources through pooling. The efficiency gain realized through pooling has helped to extend the life of the 310 area code.

On August 2, 2000, the Cellular Carriers Association of California (CCAC) filed a motion asking the Commission to cease rationing of central office prefix codes and to immediately implement 310 area code relief.⁷ CCAC argued that in

⁵ A rate center is a specific geographic location within a local exchange that is used to determine the rating of calls as either local or toll, depending on the distance between the rate centers serving two calling parties. Telephone number prefixes are assigned to a particular rate center.

⁶ In the case of wireless carriers, however, it is technically possible, though sometimes undesirable, to use numbers from an adjacent rate center to provide customers with numbers even if there is a shortage of central office prefixes in the desired rate center.

⁷ CCAC also filed a separate motion to file certain information contained in its pleading under seal, stating that such information was highly confidential and proprietary in

Footnote continued on next page

view of wireless carriers' forecasted need for triple the number of remaining central office prefix codes at that time, there was an unavoidable need for immediate area code relief. CCAC argued that continued rationing of central office prefix codes violated federal law and deprived customers of access to wireless telecommunications services. CCAC also noted the Commission's TD "Report on the 310 Area Code" which confirmed that wireless carriers were not hoarding numbers, but as of March 16, 2000, held only 466,000 out of three million unused numbers in the 310 area code.

III. Discussion

A. Requirement to Open New Area Code

We conclude that the time has come for implementation of the 310/424 area code split. In D.99-09-067, we stated that the public interest demanded an accounting of what numbers are actually in use before we set a date for further 310 area code relief. Now, with that accounting completed, we can state confidently that a rigorous scrutiny of existing number utilization has been undertaken, and several reforms have been instituted to ensure more efficient utilization of scarce numbering resources. Customers have been spared the risk of being prematurely forced to undergo an area code change.

Nonetheless, we remain cognizant of our obligation to provide for adequate numbering resources so that the public may have a competitive choice in selecting a local carrier. The FCC has required that in any area code in jeopardy where the Commission implements a number pooling trial, steps must

nature. No party opposed the motion to file under seal. Accordingly, we grant the motion to file proprietary information under seal.

be taken to adopt an area code back-up relief plan that could be implemented if numbering resources were in imminent danger of being exhausted.

B. Adoption of the Back-Up Plan

In D.00-09-073, we took a preliminary step toward area code relief by adopting a back-up contingency plan for a geographic split of the 310 area code should it become necessary as required by FCC directive. The back-up plan adopted in D.00-09-073 provided for implementation of Alternative 1A, the geographic split plan previously proposed by the industry relief planning group as originally described in D.98-05-021. As we described in D.00-09-073, the backup plan calls for a geographic split of the 310 area code. Under the adopted plan, the northern portion, including the majority of Inglewood, and all of Culver City, Marina Del Rey, Mar Vista, Santa Monica, Beverly Hills, West Los Angeles, Malibu and a small portion of the City of Hawthorne and Ventura County shall retain the 310 area code. The southern portion of the current 310 area code, including El Segundo, Hawthorne, Compton, Redondo, Lomita, and San Pedro shall be split off to form a new 424 area code. The boundary lines and rate centers covered by the new area code are depicted in Appendix A of this order.

We recognize that any area code change will entail some level of disruption, particularly to those customers that are required to take the new area code. Therefore, the industry planning group considered a variety of alternatives in order to arrive at the most optimal overall plan during the earlier stages of this proceeding. Among the plans considered was one in which the northern region would have taken the new area code and the south would have retained the existing 310 area code. The industry planning process evaluated all of the feasible plans in terms of a prescribed set of criteria as we have previously

outlined in D.00-09-073. Alternative 1A was approved by the Commission, however, because it scored more highly in satisfying all of the designated criteria than any of the alternatives. Alternative 1A is expected to minimize the overall customer disruption and to result in the best overall balance of interests for all affected customers in the 310 area code.

Alternative 1A also allows the LAX International Airport to retain the 310 area code. By comparison, under the alternative plan where the new area code would be assigned to northern region, more telephone numbers would have to be changed and the overall expected lives of the two area codes would be more unbalanced. Therefore, Alternative 1A provides a better overall balancing of interests compared with the alternative of assigning the new area code to the north.

While we approved Alternative 1A as the designated back-up plan in D.00-09-073, we deferred its implementation pending independent confirmation that carrier-reported utilization data underlying number exhaust forecasts for the 310 area code were accurate and reliable. Considerable effort went into preparing the TD Report on number utilization in the 310 area code, but the reported results of the Report reflected only the representations of carriers. In order to rely on the findings underlying the TD Report, therefore, we required independent confirmation that representations made by carriers were valid and that they properly conformed with the state and federal rules adopted for reporting purposes. Thus, we ordered TD staff to conduct an independent audit of the number utilization data underlying the TD Report on the 310 area code. The audit report findings were released on February 16, 2001.

Based on the published audit findings, TD reached three overall conclusions. First, carriers did not deliberately misreport telephone number

utilization data for the March 2000 Report on the 310 area code. Second, the audit authenticates the utilization data that carriers submitted for the March Report, except for certain recommended adjustments as noted in the audit report. Third, the additional telephone number adjustments noted in the audit report are not sufficient to extend the life of the 310 area code. As of the date of the audit report, there remained only 12 prefix codes available for assignment, exclusive of codes set aside for number pooling. In addition, two additional codes were due to be returned in March 2001 for reassignment. Out of 16 prefix codes that were initially set aside for pooling in the 310 area code, three codes had been assigned as of February 2001, one code was returned in March 2001. Accordingly, in view of the limited quantity of prefix codes remaining, particularly for carriers that could not participate in the number pool, the audit report recommended that the 310 area codes back-up plan should proceed with implementation.

Parties filed comments on the audit report by March 5, 2001. Although certain parties took exception to various findings in the report, no party questioned the conclusion that implementation of the 310 area code back-up plan should proceed.

Since the publishing of the Audit Report, additional codes have been assigned through the lottery. Moreover, additional codes have been opened to provide inventory for the 310 number pool. The TD audit report indicates that number pooling has been largely successful in meeting the needs of pooling participants through better utilization of existing numbering resources. At the present time, only paging carriers do not participate in the 310 number pool. Paging carriers are still dependent on the semi-monthly lottery rationing for their numbering needs.

The passage of time since the release of the TD audit report has provided the opportunity to evaluate the results of number pooling, as well as other number conservation measures adopted by this Commission and the FCC. Only four unassigned prefix codes currently remain available in the 310 area code for allotment through the semi-monthly lottery process, and only four prefix codes remain available as a set-aside for replenishing the 310 area code number pool. Given the limited number of remaining prefix codes available for assignment either to the lottery or to the number pool, implementation of the 310 area code back-up relief plan must go forward now in order to avoid code exhaustion.

C. Public Meetings

The industry first began customer notification of the impending exhaustion of the 310 area code in May 1997 in accordance with the 24-month customer notification required by Pub. Util. Code § 7930(a). A local jurisdiction meeting for city and county government representatives was held on August 27, 1997, to provide local jurisdictions with a status on the relief process and to gather additional information.

Public meetings were required to occur within six months of the May 1997 customer notification, i.e., by November of 1997. The industry team held four public meetings, one more than required (Pub. Util. Code § 7930) due to the request of the Commission staff to insure adequate coverage of the geographic area served by the existing 310 area code. The industry conducted one meeting per day from November 17-20, 1997, presenting different versions of a geographic split and an overlay relief plan.

Although there was no statutory requirement to conduct additional public meetings, the Commission did subsequently hold additional public

meetings during 2001, to provide updated public input regarding the 310 area code geographic split plan in view of the passage of time since the original public meetings that were held in 1997. The Commission conducted public meetings on April 23 and 24, 2001 to provide an updated opportunity for the public input on the area code relief plan. Public meetings were held in the cities of Carson and Redondo Beach on April 23, 2001, and in Culver City on April 24, 2001. The comments of members of the public appearing to speak were transcribed, and we have taken those comments into consideration in preparing this order.

D. Technical Implementation for New Area Code

The implementation of a new area code requires time for carriers to convert their switches to accommodate dialing of the new area code and to provide advance notice to customers. Some carriers may need more time than others to accomplish the conversion given the size of the networks and the complexity of the conversion. Since Pacific has the most switches and most complex network, its conversion time represents a critical overall constraint for scheduling the necessary time to prepare for permissive dialing. Pacific must also reconfigure the network to allow each E-911 call to be completed to the appropriate E-911 destination point. Pacific is responsible for these reconfiguration assessments not only for itself, but also for CLCs, independent telephone companies, and Public Safety Answering Points. Other carriers with fewer switches than Pacific should be able to complete their conversion within a shorter time.

In accordance with industry numbering guidelines, the following industry-standard prefixes should be duplicated (i.e., set aside for the same special use for which they are used in 310) in the 424 area code: the N11 prefixes

(211, 311, etc.), 555, 700, 950, 958, 959, and 976. Additionally, the following non-standard special-use prefixes should be duplicated in the 424 area code until such time as the Commission formally addresses the possibility of consolidating or eliminating them throughout the state: 853 (time) and 520 (high-volume call-in).

In D.00-09-073, in which we adopted the 310 area code back-up plan, we directed carriers to begin immediately with any network conversions and E-911 reconfigurations necessary to prepare for the beginning of the permissive dialing period. Undertaking the conversion process early helped to assure that there would be flexibility to allow for an expeditious customer notice once a schedule was adopted to implement the back-up plan without undue delay. Because we ordered carriers to begin making E-911 reconfigurations and switch translations in D.00-09-073 in order to accommodate the new area code, the implementation schedule we adopt herein should provide sufficient time for completion of any necessary remaining switch translations before the new area code is opened under the implementation schedule adopted herein.

E. Public Notification of Implementation Schedule

The implementation period for the new 424 area code must provide sufficient time for the public to prepare for and to incorporate necessary changes reflecting the new area code. An initial notice must be sent to customers advising them of the boundaries of the new area code and the prescribed dates when permissive and mandatory dialing will take effect. Subscribers must go through the process of adjusting to the new area code. Business subscribers, in particular, must notify their own customers of the area code change, and will have to print new business cards, stationary, advertising, etc. with the new area

code. We recognize the critical importance of notifying the public as quickly as possible regarding the schedule for opening the new area code in order to make the transition as smooth as possible and to minimize the potential for disruption or confusion regarding the proper area code to be dialed.

In D.00-09-073, we outlined a contingent schedule for implementing the 310 area code back-up relief plan. We envisioned a triggering mechanism to activate the schedule when or if we determined that impending code exhaustion warranted going forward with implementation. Under the trigger mechanism, the Telecommunications Division Director was to notify the assigned Commissioner and the assigned ALJ by letter at any point thereafter when it is determined that code exhaustion is imminent in eight months. Upon confirmation of the forecast, the assigned Commissioner, in consultation with the assigned ALJ and Telecommunications Division, was to then authorize the NANPA to provide carrier notification for the back-up plan to take effect. The Assigned Commissioner's authorization to the NANPA was to be made within 30 days of receipt of the notification letter of the Telecommunications Division. In such an event, the NANPA was to immediately notify carriers that implementation of the back-up plan must proceed, indicating the specific dates for permissive and mandatory dialing to begin.

In view of the passage of time since the D.00-09-073 was adopted and the continuing depletion of remaining prefix codes, however, we now believe a more efficient approach is to collapse these two events into one. In this manner, carrier notice shall proceed immediately, and there is no need for a one-month delay waiting for separate TD notification to the assigned Commissioner. Parties were provided an opportunity to comment on this proposed revision to D.00-09-073 by ALJ ruling dated March 30, 2001. No party objected to this

revision. We thus find it reasonable to adopt the ALJ's suggested revision in this respect.

Accordingly, we shall dispense with any separate notice from TD, and hereby authorize NANPA to notify carriers immediately to begin implementation of the geographic split plan (Alternative 1A) to take effect under the schedule adopted herein. Carriers shall have 60 days from the effective date of this decision to provide written notification to their customers of the impending area code change.

In addition to any regular notice by bill insert, we shall direct carriers to send separate customer notices of the schedule for the area code change by direct mail within 60 days of today's order. The separate mailings are necessary to help ensure customers receive prominent notice of the new area code. We direct the Telecommunications Division and Consumer Services Division, in cooperation with the Public Advisor, to monitor the customer notification process concerning the new area code split and to advise the assigned Commissioner in the event that further customer outreach efforts need to be implemented.

We are particularly concerned about the need for the new area code to be explained to the customers as clearly as possible, particularly in light of customers' previous experience with suspension of the overlay and mandatory 1+10-digit dialing. In addition to identifying the schedule for permissive and mandatory dialing, the notice also needs to explain that the Commission and carriers remain firm on the resolve to make carriers use number resources efficiently and to minimize the growth of new area codes in the future.

F. Transitional Dialing Periods

Pub. Util. Code § 7932 requires that a "transitional dialing period" be scheduled as part of the opening of a new area code to provide the public with a

period of time to adjust to the change in area code. This transitional period has traditionally been referred to as comprising (1) a permissive and (2) a mandatory dialing period.

For certain area code splits in the past, the Commission has adopted a six-month permissive dialing period. During the permissive dialing period, a called party in the new area code can be reached by dialing either the old or the new area code plus the called party's seven-digit number or simply by dialing the party's seven-digit number. The permissive dialing is followed by a mandatory dialing period, during which a calling party must dial the new area code to reach a party in that area. If the old area code is dialed, the calling party hears a recorded message to hang up and redial using the new area code. From the consumer's perspective, the new area code takes effect at the beginning of the mandatory dialing period.

There is no statutory restriction on how long the transitional dialing periods must last. The situation we face in terms of number resources in the 310 area code, however, constrains the available time for permissive and mandatory dialing periods. Under the preliminary schedule framework anticipated in D.00-09-073, permissive dialing was to begin two months from the effective date of the notice from the NANPA and to continue for three months thereafter. Under that assumption, seven months would elapse from the date of NANPA's notification to the industry until the end of the mandatory dialing period.

The ALJ ruling issued on March 30, 2001, solicited comments on revisions to the implementation timeframe for the 310/424 area code split to provide for additional flexibility in scheduling the transitional dialing periods

rather than adhering strictly to the scheduling assumptions underlying D.00-09-073.

As noted in the ALJ ruling, the premise underlying the seven-month schedule adopted in D.00-09-073 was that insufficient codes were available to permit a longer preparation period, and that the prefix codes reserved for number pooling would not be available for allocation to the 310 lottery. Yet, the ALJ ruling noted that the experience with the 310 number pool indicated that some of the prefix codes previously reserved for pooling were able to be reassigned to extend the lottery without jeopardizing carriers' access to numbers through the pool. By reallocating NXX codes between the pool and the lottery, additional flexibility has been added to the required time for the 310 area code split plan implementation.

A group of joint commenters⁸ responded to the ALJ ruling, opposing the idea of transferring prefix codes from the pool into the lottery, arguing that any reduction in the 310 number pool inventory below its current level at that time would be inconsistent with FCC rules that require a six-month inventory of numbers in the pooling inventory. The joint commenters pointed to the 310 Pooling Administrator's inventory data account indicating that only approximately six months of inventory remained in the pool. The joint commenters therefore claimed that there are no excess codes in the number pool that were available to be transferred to the lottery in order to extend the life of the lottery.

⁸ The comments were jointly sponsored by the California Cable Television Association, AT&T Communications of California, ICG Telecomm Group, XO California, Inc, Time Warner Telecom of California, L.P., and WorldCom, Inc. (Joint commenters).

We disagree with the claim that transferring prefix codes from the pool to the lottery violates FCC rules. Commenters' claim is based on the premise that prefix codes in the inventory will last no longer than six-months. Yet, comparisons of actual demand for thousand blocks versus forecasted demand since the inception of the 310 area code number pool indicate that carriers have consistently overestimated their actual demand for number blocks by several orders of magnitude. For example, for the year 2000, carriers forecasted 883 thousand-number blocks would be needed to meet demand. In reality, however, only 161 thousand-number blocks were actually used by carriers participating in the 310 NPA number pool, representing less than 20% of forecast demand. Likewise, in 2001, carriers forecasted that 581 thousand-number blocks would be required from the 310 area code number pool to meet demand. By contrast, only 20 blocks were actually assigned during the same period. Thus, only 3.4% of the forecast block demand was actually needed during 2001. For 2002, carriers forecasted a need for 626 blocks, but actually took only 227 blocks. The relative increase in 2002 over 2001 was due to the effects of wireless carriers entering the number pool.

In view of the consistent pattern of carriers' significant overforecasting of demand for thousand blocks, carriers' forecasts of blocks required to meet six-month inventory needs are also likely to be overforecasted.

We conclude that flexibility exists to reallocate prefix codes between the pool inventory and the lottery allotment as deemed necessary to best provide for carriers' number resource needs between now and the time that the 310/424 area code split is fully implemented. We direct our TD staff to continue to monitor the remaining numbering resources in both the number pool and the lottery, and

to make any necessary reallocations in order to provide carriers with necessary numbering resources through the implementation of the 310/424 area code split.

We have considered parties' comments in response to the ALJ Ruling, as well as subsequent experience with number resource demand through the pool and the lottery. Accordingly, we conclude that it is appropriate to extend the schedule for permissive and mandatory dialing beyond the limited periods anticipated in D.00-09-073. The combined length of the permissive and mandatory dialing periods determines how long before a new supply of numbers becomes available to carriers at the end of the mandatory dialing period. Transitional dialing periods that are too long increase the risk of running out of numbers to meet customers' demand. Transitional dialing periods that are too short, however, increase the potential for customer confusion or disruption resulting from dialing the wrong area code. Customers need time to notify others, change stationery, and business cards, change their listings in printed catalogs, and to reprogram security alarm equipment, etc., to reflect the new area code. Customers also need time to acclimate themselves to dialing numbers in the new area code.

In view of these tradeoffs, we shall establish a three and one-half month permissive dialing period and a four-month mandatory dialing period. The permissive dialing period will provide the necessary time for customers to become acquainted with the new area code while expediting the waiting period before new prefix codes can become available to carriers and their customers. At the end of the permissive dialing period, mandatory dialing of the 424 area code will take effect, requiring callers in the 310 area code to dial the 424 area code to reach a number in that area code. If a customer fails to dial the 424 area code during the mandatory dialing period, a recorded message will instruct the caller

to hang up and redial using the 424 area code. This message will continue to play during the four-month mandatory dialing period.

Carriers will not be able to actually issue new numbers from prefixes in the 424 area code, however, until the end of the mandatory dialing period. During this period, that were assigned in the 310 area code prior to the split cannot be reassigned as new numbers to customers in the 424 area code. The mandatory dialing period provides a further opportunity for the public to become accustomed to dialing the new area code. It also allows time for calling card and third-party type call billing records to be applied to the correct customer accounts before the prefixes assigned to the 310 area code are reassigned in the 424 area code.

After the expiration of the four-month mandatory dialing period, carriers can begin to assign new numbers from the prefix codes created by the 310/424 area code split. During the four-month mandatory period, carriers can still draw upon any existing inventory of prefix codes they hold as a source for providing their interim number needs. As prescribed in the Assigned Commissioner's Ruling dated November 15, 1999, setting up the 310 number pool, carriers were permitted to keep a six-month inventory of prefix codes in the 310 area code

The constrained number resources in the 310 area code preclude delaying the start of mandatory dialing to a later period. In order to guard against adverse impacts on customers from insufficient time to prepare for the new area code, therefore, careful attention needs to be paid to effective customer outreach and notice concerning the new area code.

Under existing industry practice, at the end of the prescribed mandatory dialing period, all service providers and carriers remove from their

switching networks the special recorded message instructing the caller to redial using the new area code. After the special recording is removed, callers dialing the wrong area code will simply hear the standard "Vacant Code" recording indicating that call cannot be completed as dialed and instructing the caller to check the number and dial again. This standard recorded announcement continues to play for each prefix until such time as it is assigned to a service provider with a rate center and routing information as provided in the Local Exchange Routing Guide (LERG). Once the prefix is assigned to a service provider, any call dialed to that prefix using the wrong area code will trigger a recorded message indicating that the number is no longer in service. As numbers in that prefix are assigned to new customers, the caller will merely reach a wrong number.

We are concerned that the public interest is not adequately served by the present industry practice of discontinuing the special recorded message instructing the caller to dial the new area code immediately after the end of the prescribed mandatory dialing period. We recognize that there may be certain technical, economic, or regulatory issues involved in continuing the special recorded message beyond the end of the mandatory dialing period. Yet, we believe the time has come to critically consider new alternatives that will provide additional support to the public in adjusting to a new area code. Therefore, we shall direct parties to submit comments on alternative measures that may be feasible to extend the period during which the special recording is played directing callers to dial the new area code. Parties shall also identify and discuss any technical, economic or regulatory constraints that may need to be resolved and proposed solutions for their resolution in order to implement the special recording for an indefinite period until the numbers subject to the area code

change are assigned to a new customer. We shall address the issue in a subsequent order after receipt and review of comments.

G. Continued Rationing of Prefix Codes

In its motion, CCAC requests that the Commission discontinue rationing of prefix codes. At the time that the CCAC motion was filed, wireless carriers were still participating in the lottery and were not subject to number pooling. Since that time, wireless carriers (except for paging companies) have begun to participate in the 310 area code number pool, and thus no longer obtain numbering resources through the 310 area code lottery. Thus, the request of CCAC to discontinue prefix lottery rationing is moot to the extent its focus is on the number resource requirements of non-paging wireless carriers.

The prefix code lottery for the 310 area code currently continues in effect only for paging companies since they are not currently subject to number pooling or porting requirements. We note, however, that since non-paging wireless carriers have become the sole participants in the 310 NPA number pool, no requests for prefix codes through the 310 NPA lottery have been received. During this period, paging carriers have been able to meet their demand for numbers in the 310 NPA without drawing additional codes from the lottery. Nonetheless, in the interests of number conservation and preserving a supply of prefix codes, if needed, for paging carriers, we decline to discontinue 310 rationing during the implementation phase of the 310/424 split. After the end of the mandatory dialing period, the need to continue a periodic lottery of prefix codes for the limited use of paging carriers will need to be reassessed. We delegate this task to the Director of TD.

H. Number Pooling Requirements

As a condition of approving implementation of the 310/424 area code split, the existing 310 thousand-block number pooling shall continue in effect and apply to all numbers assigned in the 424 area code (except for paging companies) concurrently with its opening. All carriers other than paging shall be required to obtain 424 area code numbers in thousand-block increments through the number pool. Until paging carriers acquire pooling capability, they shall be permitted to obtain full 10,000-block prefix codes subject to meeting the applicable eligibility requirements as previously established by Commission decisions. As soon as those carriers acquire pooling capability, they shall immediately thereafter be required to go through the number pool to meet any subsequent need for new numbers.

The existing thousand-block number pool for the 310 area code shall continue in operation after the split is implemented. Continued operation of the 310 number pool will help assure that the positive efficiency gains that have been achieved in the 310 area code will continue after the split, and that the area code will not soon be facing yet again another claim of early exhaust of its useful life. Pursuant to the FCC's awarding the national Pooling Administrator contract, NeuStar, Inc. will continue to act as Pooling Administrator both for the 310 and 424 area code number pools. Since federal number pooling has taken effect, the state-mandated 310/424 pools will operate pursuant to federal program rules.

I. Area Code Change for Customers of Wireless Carriers

In D.96-08-028, we adopted a policy permitting wireless carriers served by a tandem to retain their existing area code assignment even where wireline carriers serving the same geographic area are subject to an area code change. We

adopted this grandfather provision to relieve the burden that would otherwise result whereby customers of wireless carriers would have to physically bring in their telephone equipment to be reprogrammed, or else reprogram it themselves. Customers of wireline carriers, by contrast, do not have to bring in their handsets to their serving carrier for reprogramming when they are subject to an area code change.

The policy of not requiring wireless carriers to change the area code of their customers' numbers assigned to rate centers subject to an area code change contributes to less efficient use of numbering resources. By carrying an area code that is not consistent with the geographic area in which it is located, the wireless customers' phone numbers effectively become stranded and cannot be reassigned to wireline carriers through number pooling or other means. On April 17, 2003, D.03-04-056 was adopted which implemented a program to phase out the grandfathering of area code assignments for wireless carriers.

Consistent with the policy set forth in the D.03-04-056, all 310 area code numbers assigned to rate centers designated to change to the 424 area code shall be required to take the 424 area code. Wireless carriers will not be allowed to grandfather their 310 area code numbers in the new 424 area code.

J. Audit of Number Reporting By Carriers

As noted above, we ordered an independent staff audit to be conducted of number reporting of carriers in the 310 area code prior to implementing a schedule for the geographic split to proceed. We ordered the independent audit because otherwise, we had no independent verification of the representations made by carriers concerning number resource utilization. We note that a similar concern exists not just with the 310 area code, but wherever area code relief plans are under consideration. Therefore, in recognition of this generic concern, it is in

consumers' best interests that an independent staff verification of carrier-reported number utilization be made prior to our considering adopting a back-up plan for area code relief.

K. Adopted Implementation Schedule

The NANPA shall notify carriers to implement the 310/424 area code split according to the following schedule:

| Event | Due Date |
|--|-------------------|
| Carriers to notify customers regarding the split | Within 60 days |
| Permissive dialing begins | September 5, 2003 |
| Mandatory dialing begins | December 22, 2003 |
| Mandatory dialing ends | April 22, 2004 |

IV. Comments on Draft Decision

The draft decision of the ALJ Thomas Pulsifer in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules and Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____.

V. Assignment of Proceeding

Loretta M. Lynch is the Assigned Commissioner and Thomas R. Pulsifer is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. A new area code is needed within the next 12 months in view of pending code exhaustion in the 310 area code.
2. The Commission is required under FCC rules to open a new area code where necessary to avoid code exhaustion and denial of numbering resources necessary for competitive service.

3. The Commission has undertaken reasonable measures to assure that numbering resources in the 310 area code are being utilized as efficiently as possible.

4. In D.00-09-073, the Commission previously approved Alternative #1A, a geographic split, as the designated back-up plan to be implemented for relief in the 310 area code.

5. Carriers were previously directed in D.00-09-073 to begin necessary switch conversions in September 2000 to accommodate the new 424 area code.

6. A permissive and mandatory dialing period is necessary to provide customers sufficient time to prepare for and accustom themselves to the new area code split.

7. A period of five months' permissive dialing and four months' mandatory dialing provides a reasonable time for customers to prepare for the new area code in view of the remaining numbering resources available in the 310 area code.

8. Since paging carriers cannot currently participate in thousand-block number pooling, the enhanced number utilization efficiencies being realized by number pooling participants does not currently apply to paging carriers.

9. The prospects for numbers exhaustion in the 310 area code is being driven by the fact that only 8 prefix codes remain available to replenish the 310 area code number pool carriers' demand and paging carriers' demand through the lottery.

10. Even though the TD audit of the 310 area code utilization revealed additional unused numbers, the audit report still concluded that the additional numbers were not sufficient to avoid the need to implement the 310/424 area code split.

11. Under existing industry practice, at the end of the prescribed mandatory dialing period, all service providers and carriers remove from their switching networks the special recorded message instructing the caller to redial using the new area code.

12. Once the special recording played during the mandatory dialing is discontinued, callers dialing the wrong area code may not be properly informed regarding the need to hang up and dial the new area code.

13. It is in consumers' best interests that an independent staff verification of carrier-reported numbers be made prior to adoption of a back-up plan

Conclusions of Law

1. All reasonable efforts have been pursued to extend the life of the 310 area code without the necessity of opening a new area code.

2. Notwithstanding all reasonable efforts to extend the 310 area code life, the new 424 area code should proceed with implementation immediately in order to avoid code exhaust, thereby potentially depriving carriers and their customers of numbers needed to meet demand.

3. The back-up plan for a 310/424 area code split as adopted in D.00-09-073 should be implemented in accordance with the schedule adopted below.

4. As a condition of approving implementation of the 310/424 area code split, thousand-block number pooling should be implemented in the 424 area code concurrently with its opening. The existing 310 number pool should continue pursuant to the federal number pooling program.

5. NeuStar, Inc. should be appointed as pooling administrator for the 424 area code number pool and should continue as pooling administrator for the 310 number pool.

6. Lottery rationing of prefixes in the 310 area code should continue at least until the end of the mandatory dialing period.

O R D E R

IT IS ORDERED that:

1. The North American Numbering Plan Administrator (NANPA) and the telephone corporations, including paging companies and resellers, are hereby ordered to proceed with all due diligence to expeditiously implement the approved 310/424 area code split. Alternative 1A geographic split, including finalizing any switch conversions. The boundary lines of the geographic split and the rate centers assigned to the new 424 area code are as set forth in Appendix A.

2. The new 424 area code shall take effect under the following schedule:

| Events | Dates |
|-----------------------------|-------------------|
| Start of Permissive Dialing | September 5, 2003 |
| Start of Mandatory Dialing | December 22, 2003 |
| End of Mandatory Dialing | April 22, 2004 |

3. The NANPA shall promptly notify the carriers in the 310 area code regarding the new area code to be assigned, through a geographic split of the existing 310 area code. The notice shall set forth the above-adopted schedule for the permissive and mandatory dialing periods for the new area code to be activated, and specify the geographic areas to be covered by the old and new area codes.

4. Each telephone corporation, including paging companies and resellers, serving the geographic area covered by the existing 310 area code shall give written notice to its affected customers of the adopted 310 area code relief plan schedule as prescribed in Ordering Paragraph 3, by separate direct mailing, without delay and no later than 60 days from the effective date of this order.

5. Each telephone corporation serving the existing 310 area code shall provide a second notice of the schedule for the new area code implementation and affected geographic areas by separate mailing within three months of the beginning date for mandatory dialing of new area code.

6. The NANPA shall provide nationwide notification of the adopted 310/424 area code relief plan by no later than 30 days from the effective date of this order.

7. The Telecommunications Division and Consumer Services Division, in cooperation with the Public Advisor, shall monitor the customer notification process concerning the 310/424 area code split and shall advise the assigned Commissioner in the event that further customer outreach efforts need to be implemented.

8. The existing 310 area code thousand-block number pooling shall continue in effect and apply to all numbers assigned in the 424 area code (except for paging companies) concurrently with the opening of the new area code, with NeuStar, Inc. serving as Pooling Administrator.

9. The existing thousand-block number pool for the 310 area code shall also continue in operation in the remaining 310 area code region after the split is implemented pursuant to federal rules.

10. The Motion of the California Cellular Carriers' Association (CCAC) filed in this docket on August 2, 2000 is granted in part to the extent of the NPA relief

plan implemented in this order, and is denied in part to the extent the motion seeks to end central office prefix code rationing.

11. The motion of CCAC to file certain information contained in its motion under seal, as contained under Tab A of that motion, is granted. The confidential material shall remain under seal for a two-year period from today's date unless a new motion is filed with good cause shown to extend the sealed period.

12. The motion of CCAC to discontinue rationing of codes in the 310 area code is denied. The prefix code lottery shall continue through the implementation phase of the 310/424 split for the sole purpose of meeting paging companies' demand.

13. Parties are directed to submit comments on alternative measures that may be feasible to extend the period during which the special recording is played directing callers to dial the new area code. Parties shall identify and discuss any technical, economic or regulatory constraints to be resolved and proposed solutions in order to continue the special recording played during the mandatory dialing period for an indefinite period until the numbers subject to the area code change are assigned to a new customer. Opening comments shall be due 20 business days from the effective date of this order. Reply comments shall be due 10 business days thereafter.

14. All 310 area code numbers assigned to rate centers designated to change to 424 area code shall be required to use the new area code in accordance with D.03-04-056. No grandfathering of 310 numbers in the 424 area code shall be permitted.

15. In accordance with industry numbering guidelines, the following industry-standard prefixes shall be duplicated (i.e., set aside for the same special use for which they are used in 310) in the 424 area code: the N11 prefixes (211,

311, etc.), 555, 700, 950, 958, 959, and 976. Additionally, the following non-standard special-use prefixes shall be duplicated in the 424 area code until such time as the Commission formally addresses the possibility of consolidating or eliminating them throughout the state: 853 (time) and 520 (high-volume call-in).

16. The Director of TD is hereby delegated the task of reviewing the current lottery allotment and readjusting the allotment of prefix codes for the 310 area code between the lottery and the number pool as appropriate.

This order is effective today

Dated _____, at San Francisco, California.